

### **Remarks**

Currently pending are claims 1-16. In view of the following remarks, Applicants respectfully request reconsideration by the Examiner, and advancement of the application to allowance.

#### **35 U.S.C. § 103**

The Examiner rejected claims 1-8 under 35 U.S.C. § 103(a) as being unpatentable over Hoffmann et al. (US Pat. No. 4,806,450) in view of Kawase et al. (US Pat No. 5,753,362).

Hoffmann et al. teaches a photosensitive composition containing a copolymer. The copolymer consists of (i) hydroxyalkyl (meth)acrylates, (ii) acrylic and/or (meth)acrylic acid, and (iii) one or more alkyl acrylates, alkyl (meth)acrylates and/or vinyl aromatics with some of the carboxyl groups of the copolymer esterified by reaction with glycidyl (meth)acrylate.

The Examiner admits Hoffmann et al. does not teach that the copolymer can further contain a (meth)acrylic ester of substituted or unsubstituted phenol, C<sub>1</sub>-C<sub>8</sub> hydroxyalkylbenzene or C<sub>1</sub>-C<sub>8</sub> hydroxyalkoxyalkylbenzene and methyl (meth)acrylate in the ratio (percent by weight) of the phenol or benzene-containing compound to methyl (meth)acrylate of 7.1:92.9 to 50:50 as presently claimed. To remedy this and other deficiencies in Hoffmann et al., the Examiner cites Kawase et al. for its teaching of phenol (meth)acrylates. The Examiner contends it would have been obvious to combine Kawase et al. with Hoffmann et al. and polymerize benzyl (meth)acrylate into the copolymer taught in Hoffmann et al. in the claimed relative amounts to obtain the reaction product of the presently claimed invention. The Examiner's reasoning for

making this combination is based on optimizing the glass transition temperature of Hoffmann et al.'s photosensitive composition. Applicants respectfully submit the claims are not obvious in view of these publications for the following reasons.

First, there is no teaching or suggestion in the publications cited above to make the combination the Examiner proposes and arrive at the presently claimed invention. As noted above, Hoffmann et al. is directed to the use of its copolymer in a photosensitive composition. Hoffmann et al. emphasizes its copolymer allows the photosensitive composition to exhibit, after imagewise exposure, good developability and little sensitivity to washout with aqueous alkaline developers. No mention is made of the glass transition temperature of the composition in either Hoffmann et al. or the instant application. Thus, one of ordinary skill in the art would have no apparent motivation to make the combination the Examiner asserts above for the purpose of solving a non-existing glass transition temperature related problem.

In addition, Kawase et al. teaches other monomers besides benyl (meth)acrylate, such as monomers having a nitrile group or a group having a halogen atom, may also be polymerized into the copolymer for the purpose of raising the glass transition temperature. Therefore, at best, one skilled in the art might find it obvious to try polymerizing various combinations of the above monomers in a copolymer. However, it is well established that this is not the standard of 35 U.S.C. § 103. *See In re Geiger*, 815 F.2d 686 (Fed. Cir. 1987).

Finally, there is no reasonable expectation that the combination asserted by the Examiner above would even be successful. Kawase et al. is directed to the use of its copolymers in an acrylic sheet. In contrast to Hoffmann et al.'s recording layer which is

formed by photopolymerization, Kawase et al's acrylic sheet. is formed by chemically crosslinking the copolymer with a specific crosslinking agent. One of ordinary skill in the art would have no reasonable expectation that the influence the benzyl (meth)acrylate has on the glass transition temperature in the matrix of Kawase et al. (which is chemically crosslinked) would even be the same in the different matrix of Hoffmann et al. (which is cured by photopolymerization).

Thus, in summary, Applicants respectfully submit the Examiner's conclusion of obviousness is based on hindsight reasoning since he has isolated a feature (an acrylate with a phenyl group in Kawase et al.) and construed a non-existing problem (glass transition in Hoffmann et al.) to combine two publications in non-related fields (photosensitive recording layer vs. chemically crosslinked acrylic sheet). Accordingly, Applicants respectfully request the rejections under 35 U.S.C. § 103(a) be withdrawn.

**Conclusion**

Applicants respectfully submit that the application is in condition for allowance, and respectfully requests issuance of a Notice of Allowance directed towards the pending claims.

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